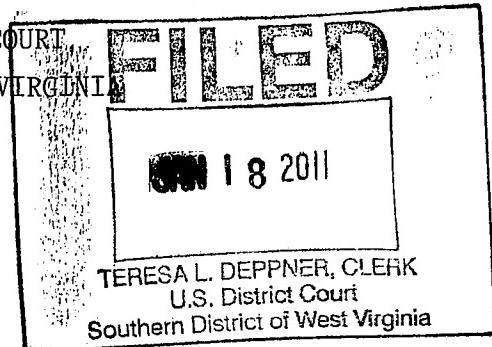


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA



Ewin Oscar Martinez,)
Plaintiff)
)
v.) PETITION FOR INJUNCTIVE RELIEF.
United States of America,) CIVIL ACTION NO. 5:11-0040
Captain Nash, Lieutenant)
Boadwau, Nurse Mr. Rose,)
et. al..)
)

Comes Now, Ewin Oscar Martinez, plaintiff, therein Pro Se, respectfully prays to this Honorable Court to grant the instant Petition for Injunctive Relief on the basis of the following:

- 01.- The life and/or physical integrity of plaintiff is in a high risk of danger.
- 02.- Plaintiff is an inmate serving "life term" of imprisonment. He completed 11 years continuous in prison on the past December 17. During the first 10 years serving his sentence, plaintiff have had a perfect CLEAR-CONDUCT. But, unfortunately he was transferred to FCI Allenwood, an Institution marked for the xenophobia and racism, where a group of BOP Officers whom call each other "brother-sister," severely harassed him until the point to fabricate false charges and accusations to house him in the Special House Unit (SHU) for plenty months. (SEE ATTACHMENT). On the basis of such false accusations, those BOP Officers finally transferred plaintiff to this Institution, FCI Beckley, under "disciplinary transfer level."
- 03.- Plaintiff is persuaded that this Institution is controlled for the same ideology which control FCI Allenwood. These are the FACTS:

On January 10, 2011. about 12:15 pm., plaintiff went to the "main-line" to ask to Captain Nash for a particular authorization: Plaintiff does not has upper-teeth. He cannot bite; and he has reported many stomach problems including stomach ache, gases and constipation. Plaintiff is also under "Religious Diet" ("Common-Fare"). Ordinarily, when the Staff Members have a holiday, they allowed the inmate-population to bring their food to their UNITS releasing the Staff Members of working at evening time. Because plaintiff needs to mash his food before eating it because he does not has upper-teeth, he went to ask the Captain Nash for authorizing him to bring his food to his UNIT to mash and cook

more appropriately his food because he cannot do that in the "main-line." Captain Nash ordered plaintiff to talk with Lieutenant Boadwau about it. But Lieutenant Boadwau did not even let plaintiff talk and simply said, "Noooo." After it, plaintiff requested from that Lieutenant his name telling him, "Sir, I cannot see what is your name. I need your name to file this issue in writing." That Lieutenant then asked plaintiff for his ID-Card, ordering him to go to the "Lieutenant Office." Before departing to that office, Lieutenant were talking with Captain Nash for about 20 minutes. Plaintiff was waiting outside of the "main-line." Then, Lieutenant Boadwau came out the "main-line" in company of Mr. Rose, a nurse, and both officers ordered plaintiff to go with them to the "Lieutenant Office." Once in that office, Lieutenant Boadwau and the Nurse Rose started a series of accusations about "disobeying orders" and threatened plaintiff to house him in the SHU indefinitely. Plaintiff alleged that he just asked for an authorization that could help him to avoid the series of health problems he has been facing because he cannot swallowing his food appropriately. Those officers made plaintiff to shup up. Plaintiff alleged he has a Constitutional Right of Free Speach. Those officers ask each other, "Constitutional rights??? He believe that he has any constitutional rights???" and started yelling. Then, Lieutenant Boadwau told plaintiff, "Even if you obtain that authorization from Dr. Edwards or from any of my superiors, including the Warden, if I see you bringing your 'common-fare' with you to your Unit, I will house you in the SHU indefinitely for DISOBEYING AN ORDER!." Among the conversation both officers threatened plaintiff with house him in the SHU alleguing false charges and accusations. Plaintiff told them, "I know you can fabricate whatever charges against me if you want to do so..." and the Nurse Rose replied, "We do whatever we wanna do with you! I am a nurse, you are an inmate!." Lieutenant Boadwau simply was laughing affirming the Nurse Rose's threats.

04.- Plaintiff is verey-very scared about those threats. He has heard a large number of stories in here about beating and drubbing inmates under false accusations of subelevation, and/or implantation of drugs, weapons, scape-paraphernalia, and things similar to these. Those officers, Captain Nash, Lieutenant Boadwau, Nuse Rose, and many others in here, have the ideology based on which the inmates do not have any Constitutional Rights and then, they can do with them whatever they want to do, as Nurse Rose stated by himself.

05.- Plaintiff is serving copy of this motion to his Embassy in Washington, D.C., to the Inspector General of the BOP, to Luis Gutierrez of the House of Representative in Washington, DC., to the attorney Louis Backer of Philadelphia, and to his family in Caracas, Venezuela.

06.- Plaintiff will try to exhaust this issue through out the BOP remedies; but he is conscious that once the Captain, that Lieutenant and that nurse be informed about it, they will retaliate against plaintiff housing him in the SHU and/or for any other unpredictable way.

07.- Plaintiff has the Constitutional Right of Free Speach.

08.- Plaintiff has a Constitutional Right to ask for a permission or authorization tending to fix or resolve any of his medical problems.

09.- In this Institution, the mere attempting of exercising any Constitutional Right provoke bad consequencies against the inmates, specially when such inmates are black, hispanic or non-nationals.

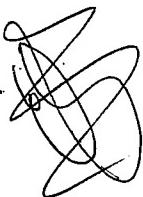
10.- Plaintiff respectfully prays to this Honorable Court to place an order over the defendants in this case to respect the Constitutional Rights of plaintiff, including his right of free speach, and his right to exhaust every administrative proceeding of the BOP, without to run the risk to be a victim of any xenophobic ideology.

11.- When plaintiff arrived to this Institution, about nine months ago, he was housed in the SHU for 17 days without any reasonable reason, and just because he wrote a letter to the Inspector General demanding an investigation regarding the reasons to have been transferred to this Institution under the label "Disciplinary Transfer". Immediately after it, some officers took from his personal property his type-wuiting ribbons, and his chess-set. When plaintiff tried to exhaust the BOP remedies regarding it, the staff member intentionally delayed to give him the applications, and there after, denied his complaints under "UNTIMELY FILED."

12.- Plaintiff respectfully prays to this Honorable Court to place an orther over the Warden of this Institution to guarantee the life, health and security of plaintiff.

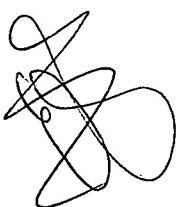
Respectfully submitted,

Ewin Oscar Martinez.
§60137-004.



Plaintiff DECLARES under PENALTY OF PERJURY that the foregoing is true and correct.

Ewin Oscar Martinez.
§60137-004.



IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

60137-004.

(Inmate Number)

Ewin Oscar Martinez.

(Name of Plaintiff)

FCI Beckley, P.O. Box 350. Beaver, WV 25813.

(Address of Plaintiff)

(Case Number)

vs.

United States of America, S.Fausey, Chamber-

lin, Yearick, NIcklin, Alexander, J. Zielins-

ki, Sawyer, Powanda, McKimpson and D.Trump.

(Names of Defendants)

COMPLAINT

TO BE FILED UNDER: 42 U.S.C. § 1983 - STATE OFFICIALS

xxx 28 U.S.C. § 1331 - FEDERAL OFFICIALS

I. Previous Lawsuits

- A. If you have filed any other lawsuits in federal court while a prisoner please list the caption and case number including year, as well as the name of the judicial officer to whom it was assigned:

Case No. EDCV 09-0375-SVW(RC). In the U.S. District Court for the Central District of California, November, 2008. Dr. George Santini. (Negligence).

Case No. 1:05-CV-2241-ODE. In U.S. District Court for the Northern District of

II. Exhaustion of Administrative Remedies

- A. Is there a grievance procedure available at your institution?

xxx Yes No

- B. Have you filed a grievance concerning the facts relating to this complaint?

xxx Yes No

If your answer is no, explain why not _____

- C. Is the grievance process completed? xxx Yes No

III. Defendants

(In Item A below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use Item B for the names, positions and places of employment of any additional defendants.)

- A. Defendant S. Fausey is employed
as 'Compound Supervisor' at FCI Allenwood.
- B. Additional defendants A.W. Nicklin, Case Manager Chamberlin, Unit Manager McIntyre, Teacher Yearick, Education assistant Supervisor J. Zielinski, Officer Alexander, Physician Assistant Micky Powanda, Officer Sawyer, Officer McKimpson, et.al.

IV. Statement of Claim

(State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach extra sheets if necessary.)

1. On or about May 29, 2009, early in the morning, Ewin Oscar Martinez ("Martinez") went to the hospital. At that time he did not know that he was identified as "an inmate who was filing against Dr. Santini." A physician assistant named Micky Powanda ("Sister Powanda.") The defendants in this case call each other "brother;" "sister.") treated Martinez with a very rude and aggressive language: "I don't care what you're saying." "I don't give a damn what you need!; etc., etc..) It occurred about Friday. Then, on Tuesday, June 1rst, 2009, Martinez went to the Counselor Schader's office asking him for a "BP8," but Schader refused to serve Martinez with. Then, Martinez went to the Case Manager Office, Chamberlin ("Brother Chamberlin"), but he was even more aggressive than Schader: "O, the filer! I don't like filers! Step out from my office!" At the next day, Martinez wrote a 'cop-out' to the Unit Manager McIntyre ("Brother McIntyre") asking for the same. Brother McIntyre never responded it. So Martinez decided to write directly to the
- 2.
- 3.

4. protection from the "Brother & Sisters." (See Exhibit "A").

On or about June 8, 2009, S. Fausey ("Brother Fausey") stopped Martinez when he was going to the 'Law Library.' (In FCI Allenwood, an inmate cannot access to the services like 'library,' 'recreation', etc., without being previously auhtorized

5. by the "Officer of the Unit" throught out a PASS). Suddenly, Brother Fausey took Martinez' 'pass,' and ordered him to come back to the 'Unit,' 4B. Martinez claimed it because he had his 'pass' to go to the library, but Brother Fausey told

Martinez, "You're in White Deer... Do you know what that means?" Martinez said,

6. "Yes. I know what means 'White Deer...'" Brother Fausey replied, "White prison! WHite territory! and we don't like filers!" Then, Brother Fausey imposed over Martinez a strange and unusual restriction: He prohibited Martinez to go to the 'Law Library' between 7:30 am. to 3:30 pm., Monday to Friday. (See Exhibit "B").

7. At the same day, at lunch time, Martinez went to talk with A.W. Nicklin ("Sister Nicklin") and Lieutenant Serrano, about it. Both officers agreed saying, "Fausey cannot do that." And Martinez believed that Sister Nicklin will take care of the situation. (In FCI Allenwood there are over seventy/eighty inmates working in

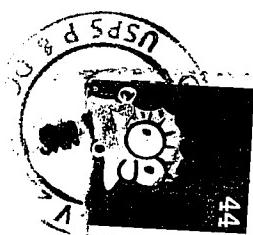
8. the 'compound area' as "Compound Orderly;" but only a few of them had specific work to do. So, to the most of them, the order was, "Go! The move is open. I don't want to see nobody hanging out in the compound!" Brother Fausey said it day by day. The instruction was "Come and sign up and go at the next move!") Martinez

9. was assigned to work like "Compound Orderly," but without any specific assigned work to do. So, Martinez was part of the group of inmates commanded to go at the next move. His co-workers had the option to go to the 'red-yard' or 'chapell'

Ewin O Martinez 001 J 601
P.o.box 350 Fed.correct. Institution
FCI Beckley.
Beaver WV - 25813
United States

*legal
mem*

60137-004
District Court
Southern District of WV.
Clerk 110 N. Heber Street
Clerk of the Court
Beckley WV - 25801
United States



FEDERAL CORRECTIONAL
INSTITUTIONS
P.O. BOX 1000
BEAVER, WV 25813
DATE 1/13-11

THE ENCLOSED LETTER WAS PROCESSED THROUGH
SPECIAL MAILING PROCEDURES FOR FORWARDING TO
YOU THE LETTER HAS BEEN NEITHER OPENED NOR
INSPECTED IF THE WRITER RAISES A QUESTION OR
PROBLEM OVER WHICH THIS FACILITY HAS JURIS-
DICTION YOU MAY WISH TO RETURN THE MATERIAL
FOR FURTHER INFORMATION OR CLARIFICATION IF
THE WRITER ENCLOSES CORRESPONDENCE FOR
FORWARDING TO ANOTHER ADDRESS PLEASE
RETURN THE ENCLOSURE TO THE ABOVE ADDRESS